

TO: Local Commissioners, Medicaid Directors, Transportation Units

FROM: Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management

SUBJECT: Use of Undue Financial Hardship Criteria for Transportation
Prior Authorization

EFFECTIVE DATE: Immediately

CONTACT PERSON: Bureau of Program Guidance:
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As a result of an adverse decision in a federal court (Kennedy v. Novello [W.D.N.Y. 2002]) districts may not deny Medicaid-funded transportation to otherwise eligible Medicaid recipients based on the "undue financial hardship" criteria defined at 18 NYCRR 505.10(b)(22). This decision does not mean that the Medicaid program must pay for transportation in all cases. Districts must still apply the remaining prior authorization criteria included in 18 NYCRR 505.10. Prior authorization may still be denied when, for example, the recipient has access to and can make use of a private vehicle or mass transportation that the recipient ordinarily uses for the usual activities of daily living. However budgets, or other financial criteria that consider recipients' ability to pay for their own transportation, may not be applied.

Current Regulation:

Under the current regulation, "undue financial hardship" means "transportation expenses which the MA recipient cannot be expected to meet from monthly income or from available resources." The regulation permits districts to approve payment for transportation that the Medicaid recipient ordinarily uses for usual activities of daily living when "the MA recipient needs multiple visits or treatments within a short period of time and the MA recipient would suffer undue financial hardship if required to make payment for the transportation to such visits or treatments" or "when the distance to be traveled necessitates a large transportation expense and undue financial hardship to the MA recipient." [18 NYCRR 505.10(d)(7)].

New Guidelines:

Effective immediately, districts must not apply the undue financial hardship criteria included in 18 NYCRR 505.10 when determining whether to grant prior authorization for transportation services. This means that districts must not consider whether otherwise eligible Medicaid recipients have sufficient monthly income or available resources to pay for their own transportation costs. Further, districts that require Medicaid recipients to complete monthly budgets of their income and resources as part of transportation prior authorization, must cease this practice immediately.

Districts must evaluate all prior authorization requests submitted without considering whether such Medicaid recipients would suffer undue financial hardship were they to pay their own transportation costs.

However, all other prior authorization criteria for transportation remain in effect. Prior authorization may be granted only when payment for the transportation expenses is essential for the Medicaid recipient to obtain necessary medical care and services. For example, if the Medicaid recipient may be transported to medically necessary medical care or services by use of a private vehicle or mass transportation that the recipient ordinarily uses for the usual activities of daily living, prior authorization may be denied. Please refer to the Department's regulations at 18 NYCRR 505.10(d) for other prior authorization procedures and requirements.